



FREDERICK COUNTY GOVERNMENT

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MEMORANDUM

To: Frederick County Board of Appeals
From: Kathy L. Mitchell, Senior Assistant County Attorney
Date: December 5, 2022
Re: B-22-33 – Hyattstown Self-Storage Development – Site Plan

This Memorandum is submitted on behalf of the Frederick County Planning Commission in connection with Appeal B-22-33:

BACKGROUND/FACTS

This appeal arises out of a site plan application for property located at 1920 Urbana Pike, which consists of approximately 8 acres of land and is zoned General Commercial. The Appellant filed for approval to construct eighteen (18) self-storage buildings and one small office building. The proposed buildings total 138,075 square feet. Self-storage units are classified as a “principal permitted use” in the General Commercial zoning district, subject to site plan approval.

At the September 14, 2022 public meeting, County staff recommended approval of the site plan, as evidenced by the staff report submitted by the Appellant as Exhibit 3. However, several members of the surrounding community testified that they were opposed to approval of the site plan for several reasons, including:

- 1) concerns about well yield and the low water table;
- 2) groundwater contamination and environmental impacts with storage of hazardous materials, RV's, boats, etc. in the facility;

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- 3) noise, light spillage, security concerns, due to 24-hour access to the storage units;
- 4) traffic issues on Fire Tower Road, including speeding, congestion, dangerous turning movements, big trucks on a narrow road, and accidents;
- 5) issues related to a proposed second entrance (not required by County law) such as people using Fire Tower Lane as a "U-turn" due to the right-in, right-out requirements, and increasing traffic and creating dangers for neighborhood kids;
- 6) noise during construction;
- 7) negative impacts on property values and the neighborhood due to the proximity of the storage units;
- 8) building construction materials (metal) which are not compatible with the building materials of neighborhood structures (brick);
- 9) failure of the proposed SWM ponds and permeable pavement;
- 10) light spillage from the project to neighborhood properties;
- 11) negative effects on wetlands and wildlife;
- 12) lack of notice about the project (no mailings, no outreach, signs difficult to see due to vegetation(; and
- 13) loss of privacy due to the proximity of the storage units to the neighborhood.

The Planning Commission discussed the issues involved with the application and ultimately voted to deny a motion to approve the application (1 in favor, 5 against, and 1 absent).

This appeal was filed by the Appellant in a timely manner.

ARGUMENT

The record at the Planning Commission meeting included valid and legally supportable reasons to deny the site plan based on the information provided by County Staff, the Appellant, and public testimony.

Section 1-19-3.300.4 of the County Code (Approval Criteria) sets forth five broad criteria and states that site development plan approval “shall be granted when the Planning Commission ... *find[s] that the application for development has met the following criteria* based upon the standards and provisions of this chapter.” The Planning Commission denied the site plan in this case, based on the site plan’s failure to satisfy all of these criteria.

Section 1-19-3.300.4 (A) states that the existing and anticipated surrounding land uses must have been *adequately considered* in the design of the development, and that negative impacts should be *minimized* through means such as building placement or scale, landscaping, or screening, and an evaluation of lighting.

In this case, members of the public testified that the storage unit project would cause a myriad of negative impacts including noise, light spillage, security concerns, loss of privacy, light spillage, and other issues related to §1-19-3.300.4(A).

The Planning Commission members had similar concerns, asking the Appellant what they were doing to minimize negative consequences to the surrounding area. The Appellant answered that they were using buffers and landscaping, but admitted that it would take 10-15 years before the trees would grow enough to provide screening of the storage units.

Section 1-19-3.300.4 (B) states that the transportation system and parking areas must be adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation. Factors to be considered by the Planning Commission include: on-street parking

impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.

During public comment, several speakers raised issues related to traffic safety and access to the proposed project. Nine out of 11 speakers raised concerns about traffic issues on Fire Tower Road, including speeding, congestion, dangerous turning movements, large trucks maneuvering on a narrow road, and possible accidents due to all of these. A majority of public speakers cited issues related to the Appellant's proposed second entrance, and stated that drivers would be likely to use Fire Tower Lane (the neighborhood road) as a "U-turn" due to the second access's right-in, right-out requirements, thus increasing traffic in the neighborhood and creating dangers for the children playing there.

This factor caused the greatest concern for the Planning Commission members. They asked a number of questions related to traffic issues, and Commissioner Rensberger stated that he could not imagine what a traffic engineer might say to "convince this Commissioner that that's not a bad intersection already and that this [doesn't] make it worse." Commissioner Rensberger also went on to state that he believed that this site plan was inconsistent with Livable Frederick Master Plan with regard to health, traffic and safety. When asked, County staff also testified that a second entrance was not warranted for this use. Construction of the second entrance also required removal of a specimen tree, which is a decision within the discretion of the Planning Commission.

Section 1-19-3.300.4 (C) provides that, if the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development, and, if the proposed development will be served by on-site wells and

septic tanks, the facilities must meet the requirements of and receive approval from the Maryland Department of the Environment (MDE) and/or the Frederick County Health Department (FCHD).

Several residents raised concerns related to a low water table and the effect of the project on well yield. They were also anxious about groundwater contamination and environmental impacts from the storage of hazardous materials.

Some of the Planning Commission members had questions related to this factor; however, since the units will be served by wells and septic systems, the authority for approval of these issues lies with the MDE and/or FCHD.

CONCLUSION

As is discussed above, §1-19-3.300.4 of the County Zoning Ordinance provides that site development plan approval “shall be granted when the Planning Commission ... find[s] that the application for development has met the following [five] criteria based upon the standards and provisions of this chapter.” Although the staff report found that the Appellant met all of these requirements, the Planning Commission clearly did not agree, especially with regard to the requirements of §1-19-3.300.4 (A) and (B). Therefore, the Planning Commission properly denied the site plan.

Respectfully submitted,

_____/s/_____
Kathy Mitchell,
Senior Asst. County Attorney